

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis of an amendment to Section 1916, entitled "In-Home Supports", Chapter 19 (Home and Community-based Waiver Services for Persons with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of in-home supports provided to participants in the Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five-year period beginning November 20, 2012. In-home supports provide periodic supports to assist the primary caregiver and enable the person to reside successfully in their homes. These rules amend the previously published rules by: (1) establishing guidelines for obtaining additional in-home supports services in the event of a temporary emergency; and (2) establishing new guidelines for the maintenance of documents for auditing and review purposes.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of ID/DD Waiver services. In-home supports services are essential to ensuring that persons enrolled in the ID/DD Waiver continue to receive services and supports in the comfort of their own homes or family homes. This rule includes new service delivery requirements when a provider requests an extension of services during a temporary emergency. These measures will ensure that providers comply with stricter service delivery standards and improve the quality of health services. These rules are published on an emergency basis to ensure that the health, safety, and welfare of persons receiving this service will continue to receive these services in accordance with the enhanced service delivery requirements.

The emergency rulemaking was adopted on July 31, 2013 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until November 27, 2013, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 1916 (In-Home Supports) of Chapter 19 of Title 29, PUBLIC WELFARE of the DCMR is deleted in its entirety and amended to read as follows:

1916 IN-HOME SUPPORTS SERVICES

- 1916.1 The purpose of this section is to establish standards governing Medicaid eligibility for in-home supports services for persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of these services.
- 1916.2 In-home supports are services provided to a person to assist him or her to reside successfully at home. Services may be provided in the home or community, with the place of residence as the primary setting.
- 1916.3 To be eligible for reimbursement, in-home supports services shall be:
- (a) Included in the person's Individual Support Plan (ISP) and Plan of Care;
 - (b) Habilitative in nature; and
 - (c) Provided to a person living in one of the following types of residences:
 - (1) The person's own home;
 - (2) The person's family home; or,
 - (3) The home of an unpaid caregiver.
- 1916.4 In-home supports services include a combination of hands-on care, habilitative supports, and assistance with activities of daily living. In-home supports services eligible for reimbursement shall include the following:
- (a) Training and support in activities of daily living and independent living skills;
 - (b) Training and support to enhance community integration by utilizing community resources, including management of financial and personal affairs and awareness of health and safety precaution;
 - (c) Training on, and assistance in the monitoring of health, nutrition, and physical condition;
 - (d) Training and support to coordinate or manage tasks outlined in the Health Management Care Plan;

- (e) Assistance in performing personal care, and household and homemaking tasks that are specific to the needs of the person;
- (f) Assistance with developing the skills necessary to reduce or eliminate behavioral episodes by implementing a Behavioral Support Plan (BSP) or positive strategies;
- (g) Assistance with the acquisition of new skills or maintenance of existing skills based on individualized preferences and goals identified in the in-home Supports Plan, ISP, and Plan of Care; and
- (h) Coordinating transportation to participate in community events consistent with this service.

1916.5 Each provider rendering in-home supports services shall:

- (a) Be a Waiver provider agency; and
- (b) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.

1916.6 Each Direct Support Professional (DSP) rendering in-home supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.

1916.7 In-home support services shall be authorized in accordance with the following provider requirements:

- (a) The Department on Disability Services (DDS) shall provide a written service authorization before the commencement of services;
- (b) The service name and provider delivering services shall be identified in the ISP and Plan of Care;
- (c) The ISP and Plan of Care shall document the amount and frequency of services to be received;
- (d) The in-home Supports Plan, ISP, and Plan of Care shall be submitted to and authorized by DDS annually; and
- (e) The provider shall submit each quarterly review to the person's DDS Service Coordinator within thirty (30) days of the end of each quarter of the person's effective date of the ISP.

- 1916.8 Each provider of in-home supports services shall maintain the following documents for monitoring and audit reviews:
- (a) The daily progress notes described in Section 1909 of Chapter 19 of Title 29 DCMR, which shall include the following:
 - (1) A listing of all community activities attended by the person and the person's response to those activities;
 - (2) A listing of all habilitative supports provided in the home and the person's response to the supports; and
 - (3) Any visitor the person receives, special events attended, and any situation or event in the home that requires follow-up during the delivery of the in-home supports services; and
 - (4) The dates and times services are delivered.
 - (b) The documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1916.9 Each provider shall comply with the requirements under Section 1908 (Reporting Requirements) of Chapter 19 of Title 29 DCMR and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1916.10 Each DSP providing in-home support services shall assist each person in the acquisition, retention, and improvement of skills related to activities of daily living, such as personal grooming, household chores, eating and food preparation, and other social adaptive skills necessary to enable the person to reside in the community.
- 1916.11 Each DSP providing in-home supports services shall:
- (a) Be a member of the person's Support Team;
 - (b) Assist with and actively participate in the development of the person's In-Home Supports Plan, ISP, and Plan of Care;
 - (c) Record daily progress notes; and
 - (d) Review the person's in-home Supports Plan, ISP, and Plan of Care initially and at least quarterly, and more often as needed once the DSP initiates services.

- 1916.12 In-home supports services shall only be provided for eight (8) hours per day. DDS may authorize an increase in hours, for an additional eight (8) hours per day up to one hundred and eighty (180) days, in the event of a temporary emergency.
- 1916.13 In the event of a temporary emergency, a written justification for an increase in hours shall be submitted with the in-home Supports Plan, ISP, and Plan of Care by the provider to DDS. The written justification must include:
- (a) An explanation of why no other resource is available;
 - (b) A description of the temporary emergency;
 - (c) An explanation of how the additional hours of in-home supports services will support the person's habilitative needs;
 - (d) A revised copy of the in-home Supports Plan, ISP, and Plan of Care reflecting the increase in habilitative supports to be provided; and
 - (e) The service authorization from the Medicaid Waiver Supervisor or other Department on Disability Services Administration designated staff.
- 1916.14 Payment for in-home supports services shall not be made for routine care and supervision that is normally provided by the family, legal guardian, or spouse.
- 1916.15 Family members who provide in-home Supports services shall comply with Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.
- 1916.16 Family members who provide in-home supports services shall not reside in the same home as the person receiving the services.
- 1916.17 In-home supports services shall not be provided to persons receiving the following residential services:
- (a) Host Home;
 - (b) Shared Living;
 - (c) Residential Habilitation; and
 - (d) Supported Living.
- 1916.18 In-home supports services may be used in combination with Medicaid State Plan Personal Care Aide (PCA) services or ID/DD PCA services, provided the services are not rendered at the same time.

- 1916.19 In-home supports services shall not be used to provide supports that are normally provided by medical professionals.
- 1916.20 In-home supports services shall be billed at the unit rate. The reimbursement rate shall be twenty dollars and eighty eight cents (\$20.88) per hour billable in units of fifteen (15) minutes at a rate of five dollars and twenty two cents (\$5.22), and shall not exceed eight (8) hours per twenty-four (24) hour day. A standard unit of fifteen (15) minutes requires a minimum of eight (8) minutes of continuous service to be billed. Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the person.
- 1916.21 Reimbursement for in-home supports services shall not include:
- (a) Room and board costs;
 - (b) Routine care and general supervision normally provided by the family or natural caregivers;
 - (c) Services or costs for which payment is made by a source other than Medicaid;
 - (d) Travel or travel training to Supportive Employment, Day Habilitation, Individualized Day Supports, or Employment Readiness; and
 - (e) Costs associated with the DSP engaging in community activities with the individuals.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCF_Publiccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20 and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl. & 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its adoption on an emergency basis, and notice of its intent to adopt on a permanent basis, amendments to Chapter 4 (Taxicab Payment Service Providers) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This rule clarifies the hardware and software components of integrations between taxicab payment service providers (PSPs) and digital dispatch services (DDSs) to provide for the digital dispatch of taxicabs. There is an immediate need to preserve and promote the safety and welfare of the District's residents and visitors through maintaining consistency throughout the ongoing installations of modern taximeter systems (MTS) and to provide necessary updates to the regulatory framework to implement the MTS, thereby preventing legal incongruities that will halt the implementation of the MTS, which would prevent the residents and visitors from receiving the consumer and safety improvements intended by the D.C. Council.

The emergency rulemaking was adopted on July 31, 2013, shall take effect on Friday, August 9, and remain in effect for one hundred twenty (120) days after the date of adoption (expiring November 27, 2013), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 401, GENERAL REQUIREMENTS, is amended as follows:

Subsections 401.3 and 401.4 are amended to read as follows:

401.3 Each PSP and each digital dispatch service (DDS) shall comply with the integration requirements of § 408.16 for the processing of digital payment, not later than the date required by § 603.2. Prior to such date, each DDS shall be

**DISTRICT OF COLUMBIA BOARD OF ETHICS
AND GOVERNMENT ACCOUNTABILITY**

NOTICE OF FINAL RULEMAKING

The Board of Ethics and Government Accountability ("Ethics Board"), pursuant to the authority set forth in Section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) (2012 Supp.)), hereby gives notice of final rulemaking action to amend Section 5800.2, Chapter 58 (Registration of Lobbyists), of Title 3 (Elections and Ethics), of the District of Columbia Municipal Regulations ("DCMR").

The emergency and proposed rulemaking was adopted by the Ethics Board on June 20, 2013, and became effective immediately, published in the *D.C. Register* on June 28, 2013, at 60 DCR 009768. No written comments were received and no substantive changes have been made to the text of the proposed amendment. The Ethics Board adopted the rulemaking as final on August 8, 2013. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Subsection 5800.2 of Title 3, ELECTIONS AND ETHICS, of the DCMR is amended to read as follows:

- 5800.2 A person shall register as a lobbyist with the Director of Government Ethics (the Director) by filing the Lobbyist Registration Form if that person, under the following circumstances:
- (a) Receives compensation of two hundred fifty dollars (\$250) or more in any three (3) consecutive calendar month period for lobbying;
 - (b) Receives compensation from more than one (1) source which totals two hundred fifty dollars (\$250) or more in any three (3) consecutive month period for lobbying; or
 - (c) Expends funds of two hundred fifty dollars (\$250) or more in any three (3) consecutive calendar month period for lobbying.